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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,630	05/11/2001	Andrew Strawn	367.40103X00	5351
20457	7590	05/04/2005	EXAMINER	
ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-3873			TORRES, MARCOS L	
			ART UNIT	PAPER NUMBER
			2687	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/852,630	STRAWN ET AL.
	Examiner Marcos L Torres	Art Unit 2687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 11 March 2005.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-6,8-17 and 19-22 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3,8-14 and 19-22 is/are rejected.  
 7) Claim(s) 4-6 and 15-17 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 31105.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 11, 2005 has been entered.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) filed on March 11, 2005 was considered by the examiner.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-6, 8-17 and 19-22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

4. Claims 4-6 and 15-17 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim 3. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 8-9, 12-14 and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Curtis US006594472B1.

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

As to claim 1, Curtis discloses an electronic radiotelephone (see col. 1, line 5) comprising a first and a second housing (see col. 3, lines 17-18) for housing electronic components of the radiotelephone (see col. 3, lines 40-48) and a biasing mechanism to aid a user to release the second housing from the first housing (see col. 3, lines 23-27), the first housing having an element with an operating surface (see col. 3, lines 31-38) and a formation which co-operates with a complementary formation on the second housing for the user to releasable attach the first housing to the second housing, the element being movable between a first and a second position such that when the element is in the first position the formation and complementary formation co-operate to allow the first housing to be coupled to the second housing and when in the second position to allow the second housing to be removed from the first housing by the user;

the element being resiliently compression biased by the biasing mechanism into the first position and allows a user to urge the element, via the operating surface, into the second position during the removal of the second housing from the first housing to act against the compression bias provided by the biasing mechanism and to release the co-operation of the formation and complementary formation, thereby allowing the second housing to be removed from the first housing by the user without interference from the element, and means for urging the second housing away from the first housing so that a front wall of the first housing and a rear wall of the second housing are urged apart which aids the removal of the second housing from the first housing (see col. 4, line 4 – col. 5, line 10).

As to claim 2, Curtis discloses everything claimed as explained above (see claim 1) and a radiotelephone wherein the first housing is presented away from a user during operation of the radiotelephone and the second housing is presented towards a user during operation of the radiotelephone (see col. 1, lines 35-47).

As to claims 3, Curtis discloses everything claimed as explained above (see claim 1) and a radiotelephone further comprising retaining means for retaining the electronic components of the radiotelephone to the first and second housing (see col. 3, lines 41-47).

As to claims 8 and 9, Curtis discloses everything claimed as explained above (see claim 1) and a radiotelephone wherein the means for urging comprises a spring associated with the first and second housing which is compressed when the first and second housings are coupled (see col. 4, lines 41-63).

As to claims 12-14 and 19-20, Curtis discloses everything claimed as explained (see claim 1) above and a radiotelephone comprising: an interior volume disposed between the first and second housings, which houses electronic components of the radiotelephones (see fig. 1).

***Claim Rejections - 35 USC § 103***

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 10-11 and 21-22 are rejected under 35 U.S.C. 103(a) as being obvious over Curtis in view of Guzik US 4719322.

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

As to claims 10 and 11, Curtis disclose everything claimed as explained above (see claim 1) except for a radiotelephone wherein the means for urging comprises a rubber seal associated with the first and second housing and arranged to be compressed when the first and second housings are coupled. In an analogous art, Guzik a radiotelephone wherein the means for urging comprises a rubber seal associated with the first and second housing and arranged to be compressed when the first and second housings are coupled (see col. 1, lines 27-29). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add

these teachings to the Curtis system for the simple purpose of protecting the internal parts of the device.

As to claims 21-22, Curtis discloses a radiotelephone comprising: an interior volume disposed between the first and second housings, which houses electronic components of the radiotelephones (see fig. 1).

***Conclusion***

Any response to this Office Action should be mailed to:

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Hand delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L Torres whose telephone number is 703-305-1478. The examiner can normally be reached on 8:00am-6:00 PM alt. Wednesday Off.

Art Unit: 2687

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G Kincaid can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Marcos L Torres  
Examiner  
Art Unit 2687

Mlt



ELISEO RAMOS-FELICIANO  
PATENT EXAMINER  
4/26/05